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# Concept of Federalism and its Development in Indian and US Politics

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## **Abstract**

*No system of the governance in the world can be properly understood without reference to the context and circumstances in which it was created. Inevitably, every system changes and adapts as it carries forward into use and abuse. A federal design is one which has applied by almost half of the world countries accordingly to meet their basic needs and circumstances. A federal polity involves the binding partnership as well as give and take policy between the central and its federal constituents. Being the largest democratic countries in the world, both India and US are based on federalism in their political structure, while both are modern federal countries and are different in their federal structure as well as in political development. The concept of federalism has taken many stages from its inception in these two countries. The considered paper is dealing with these stages of federalism and how this concept was applied and developed in both India and US politics.*

**Key words:** *Federalism, Concept of federalism, Indo-US federal development.*

## **Introduction**

The study of federalism is broadest term is now by widely accepted as one of the forms of political organisations that is strongly inter-linked with democracy. It has been adopted most by the countries with large in size and population. A country large in size, having multiculturalism is difficult for its single government to reach every corner of the country, so, in such situation federalism is applied in which powers are distributed between its central and state governments to which they have joined to form the federation. The idea of federalism has been conceptualized in two different ways. On the one hand, federalism has been conceived as a means to unite a people already linked by bonds of nationality through distribution of political power among the nation's constituent units. On the other hand, federalism has also been conceived as a means to unify diverse people for important but limited purposes, without disrupting their primary ties to the individual polities that constitute the federal system. Both these conceptions of federalism have evolved from early federal experiments.

The concept of federalism is not new. In fact, is old as we see its roots in Bible in which the term is used for theological purpose to define the partnership between the God and man. The ancient Israelist



tribes that existed sometime in thirteenth century had a system that could loosely be called a federal system. It is debatable as to whether the system adopted by them was a 'federation' or a 'confederation' as understood by modern day definitions. Federation in its present form is largely a late eighteenth to middle-twentieth century phenomenon. Of the democratic polities only Switzerland was federal, rather Confederal, before 1750. The USA emerged as the first new democratic federation in 1776. In the twentieth century, especially since World War II, new federal arrangements have been developed, or federal elements have been recognized in older ones previously not well understood. At the same time, new federations were founded and restored in Eastern Europe, like Germany, Austria, and Czechoslovakia. Africa also had its share of federations in Nigeria, Comoros, Ghana, Kenya, Uganda and Tanzania. Asia produced federations in India, Malaysia, Pakistan and United Arab Emirates, United Arab Republic. Depending on the strength of the political culture and contemporary political climate some of these survived and some died natural death. India is one of those countries in which the Constitution consciously adopts a federal structure, which continues to work till today. The theory has gone under so many changes in its development according to the situations and circumstances of the respective country. Since 1776, US followed the dual federalism and new federalism to meet the peculiar needs of the country

whereas India followed the dyarchy in its British period and cooperative federalism after the independence.

### **Discussion**

Gradually and slowly, small states are realising the necessity of the term 'federalism' in their political structure because these nations very rightly feel that unless these combine together it shall not be possible for them to either defend themselves from outside aggression or economic development. But the federations come into being under different situations and conditions and relations of central government in a federation, with its federating units vary from federation to federation. Before we trace out its concept it is essential to have a look on its meaning.

The term "federal" is derived from the Latin *foedus*, which, like the Hebrew term *brit*, means covenant or an agreement or treaty. As such, etymologically speaking, a federation is a state that comes into existence by treaty or an agreement between several states. When several small states decide by treaty to merge to form one big sovereign state but at the same time decide to retain one part of authority, the other being vested in the government of the state formed by them, the system that emerged is called a 'Federation' or a 'Federal System'. It begins with the rising sense of common nationality, some emergent crisis, or underlying consensus among some autonomous states, and culminates in an irrevocable compact for making a federation. Like



any other compact, it has to have a written constitution that cannot be unilaterally altered. The terms of the compact and division of the powers or functions therein are made by federating units as coordinate and co-equal bodies. There cannot be any dominating party or an over bearing unit within the group. The federation is an out-come of the will to live together by preserving international autonomy. To ensure that no undue and unauthorised inroads are made by one level of the government into the spheres of the other, there is usually a judicial review by superior court acting as the guardian of federal covenant. A federation is made by a federating plural society, and comprises a set of institutions to erect to meet particular type of social, political, military and economic situation. The phenomenon that is so created is not static but dynamic. In a federal system the government powers are divided between a government for the whole country in such a way that each government is legally independent within its own sphere. The government for the whole country has its own area of powers and exercise its authority without any control from the government \s of the constituent parts of the country, and these latter in their turn exercise their powers without being controlled by the central powers. Neither is subordinate to the other both are co-ordinate. In this system it is easier to maintain harmonious relationship among the diverse elements in terms of religion, language, ethnic origin, culture habits and ways of life and

forge unity which is highly essential for maintaining national solidarity.

The word was first coined in 1645, for usage of theological purposes to define the partnership between man and God described in the Bible, which, in turn, gave form to the idea of a covenantal (or federal) relationship between individuals and families leading to the formation of a body politic and between bodies politic leading to the creation of compound polities. The political applications of the theological usage gave rise to the transformation of the term "federal" into an explicitly political concept.

Today, federalism is a highly popular political system. According to Riker over half the land mass of the world was ruled in 1964, by the governments that described themselves as federations. Among them are some of the biggest states of the world like, India, United States, Canada, Australia and the Soviet Union as well as some of the smallest states like Switzerland, Austria and Yugoslavia. The ideas and institutions related to federal, political organisation of government is generally traced back to ancient Indian, Greek and Israelite antiquities. Both in the Israelist and Greek federation systems the aim was unification of communal democracies in the larger interest in the realm of defence. Both of them disappeared as a result of conquest by Alexander, and later on, by Rome. The Roman Republic, though it could formally be called federal, had an arrangement that was quite asymmetric. Rome became the federal power and the weaker



cities conquered by it were attached to it as loose federal partners, ensuring local autonomy to a certain extent, but not being given full political rights of Roman citizens. Subsequently, when Rome consolidated its powers, although federalism remained on paper, the Roman Empire became a centralized empire. In the middle ages, the Dutch and Swiss Confederations came into existence. The earlier survived for more than 200 years although after 1762, it was no more than a monarchy. The confederation was better than the Greek one because the true federal idea made its appearance. Federalism in the modern period was first adopted by the United States. Federalism as a model of political organisation was embodied in the Constitution of Swiss Confederation, the dominion of Canada and the Commonwealth of Australia. This trend of the increasing appeal of the federal idea is also discernible in the twentieth century and the adoption by India in 1950, of a Constitution that it's predominantly federal in nature bears testimony to this fact and Indian federalism in which the Constitution consciously adopted the federal structure which continuously work till today. Since then the Federal form of government has had a phenomenal popularity worldwide both at national and supranational levels.

### **Development of Indian federalism**

The century prior to 1947, may properly be called the British Century which gave a greater degree of national unity and solidarity and a better form of

government than it had never enjoyed before. Administratively, the British developed a pattern of government which is still followed in its basic outlines by free India.

The seeds of Indian federation were sown in the colonial rule of Britishers (Act of 1909, 1919, 1935). In 1909, Lord Morley eventually appointed a Decentralization Commission for the purpose to simplify relations between the central government and its subordinate and coordinate parts. Till the end of 1918, there was no genuine decentralisation of power. The Act of 1919 has some novel features and relaxed the control of Central Government over the provinces. It was the first time that central and state subjects were separated from each other and for administrative, financial, and legislative purpose these were specially enumerated. In the provinces dyarchy was introduced and it injected the dose of autonomy in Indian political system and created an appetite for more doses of autonomy in administration. In 1929, the Simon Commission recommended complete autonomy in the province including the department of law and order, but the governor on the administrative side to be given overriding powers in certain matters like internal security and also the federal government at the Centre, embracing not only British India but the princely states as well. The Nehru Report also envisaged that the Constitution of India should be federal in character. It recommended a bicameral system of legislature and also a Supreme Court, as the court of appeal in India. After it the Govt of



India Act 1935, was passed which proposed to set up federal polity in India. It was the last important Act which was given to the people of India by British Government. By this document the supremacy of British Parliament over India was fully maintained and she was given the power to alter the document as and when she desired. Since there was nothing new to be announced, therefore, the Act had no preamble and that of the Act of 1919, was to be treated as the preamble of Act as well. Under the proposed Act India was to be a federation consisting of two houses of legislature at the centre. Accordingly there was distribution of subjects. The system of diarchy which had been much commended and which had failed in its working in the province was introduced at the centre. The residuary powers were left with the Governor-General himself, who was to decide which legislature should be loaded with a responsibility of enacting on such a subject. There were many 59 subjects which were included in the federal list. These include armed forces, foreign affairs, railways etc. in the province there were 54 subjects and included justice, police, education etc. In the concurrent list subjects included marriage, divorce, arbitration etc. The federation envisaged by the Govt of India Act 1935, never came into being because the States and their Prince who had been given the option of joining the federation didn't come forward in requisite number. Under the same Act a federal court was established which would decide the disputes between the centre and the

provinces or between the province themselves or for the interpretation of any part of the Act. It was to consist of a chief justice and more than six other judges who remained in office till the age of 65.

The next phase in this process is related with the cabinet mission, came to India to settle the Indian problem. It rejected the Muslim demand for a separate state of Pakistan. And also examined the Congress scheme of constituting India into a union under which the provinces would have full autonomy, subjects only to a minimum of central subjects comprising Foreign Affairs, Defence and Communication. The Mission recommended the location of residuary powers in the provinces and setting up of a Constituent Assembly and draw up a permanent constitution. In the same year, the objective resolution proposed by Jawaharlal Nehru in 1946, sought to propose a federal polity with autonomous units having residuary powers. But due to partition of the country the idea of having autonomous units was changed into the idea of strong union government: the word 'union' of India was preferred to the idea of 'federalism' of India. In the Constituent Assembly, the Draft Committee decided in favour of describing India as a Union. Explaining the use of the word a 'union', Ambedkar indicated two things (i) it is not a federation in the sense that it is not the agreement of states, and (ii) the states do not have right to secede from the federation

### **Development of federalism after independence**



After independence there was nothing new to be changed in federation. The present construction has taken most of the elements from Govt of India Act, 1935. The provisions of Act of 1935, were considered and adopted in the new Constitution which was adopted on 26 November 1949, provided for India being a Union of States and its States and Territories being as specified in the First Schedule. The Schedule specified four types of units- Part A, B and C States and Part D Territories. Latter, on the recommendations of the State Reorganisation Commission (1956), and with subsequent amendments, India now stands, according to Article 1 of the Constitution as a 'Union' of States.

Federal experiments in other parts of the world have also undergone changes similar to that of the United States. The Indian political system, ' which unlike the United States originated as an administrative rather than a contractual federation has also passed through its various phases of federal policy from its quasi-federal character to a stage of cooperation and competition in its centre-state relations, and then to a stage of extreme centralization. Scholars have identified three distinct phases in the development of Indian federalism since Independence, each shaped by the political forces at work at different stages." The first phase, 1947-65 era, was marked by Nehru's undisputed sway over the country's affairs on the one hand and strong reaction to the earlier attempts of the colonial power to encourage divisive forces on the other. The second phase, 1965-71 periods, was characterised first by the

changes at the top and, later, by the pattern of multi-party government in the states, and the third phase, the post-1971 stage, till the declaration of emergency in 1975, features a new semblance of stability under Indira Gandhi's dominating influence. It is in this phase that the issue of greater state autonomy was vehemently advocated by the leaders of the non-Congress governments particularly in the States of ' Jammu & Kashmir and Tamil Nadu. . To these three phases can be added, the fourth one-the nineteen months of emergency period during 1975-77-when the increasing demand of state autonomy was not only shelved in the background, but the very federal character of the system had undergone complete alteration, the 42<sup>nd</sup> constitutional amendment was passed during this period which made the constitution quite centralized. The advent of the Janata Party at the Centre! in the post-emergency era with its commitment to the process of devolution and decentralisation in policy-making have led many observers to believe that a reverse process of federalization may now be set in motion. In spite of strained relationship between the Centre and non-Congress ruled states after the General Elections of 1980, in 1983, Sarkaria Commission was constituted which looked at the Centre-State relations, and momentous changes have taken place in the polity and economy of the country, which have strong bearing on the financial and economic relations between the Centre and the States. After 1989, a coalition period has led the federalism towards cooperative federalism.. The emergence of





regional parties in India has opened a new area in federal governance where states are playing crucial role in restructuring the federal system. So a climate of 'Politics of Confrontation' emerged. Interestingly, the era of coalition politics after 1989, created a sense of competition and cooperation between 'the Centre and the States which has led scholars to describe it as 'Cooperative federalism'. Both Central and State governments are in competition and cooperative to lead the country towards progressive federalism. Another major development in Indian federalism was 73<sup>th</sup> and 74<sup>th</sup> amendment which created third tier government at district and village level. Both Urban and Rural government have their legislative functions in their respective areas. A Punchhi Commission has been set up under the UPA government to look into the issues of Centre-State relations in view the sea changes that have taken place since the Sarkaria Commission. The current phase offers an example where the regional or state governments hold the driving force and a new idea of devolution of authority even at the grass-root level has emerge.

### **Development of American federalism**

Many theoreticians and scholars have contributed their ideas which led to the emergence of limited governments to ensure people's rights. John Locke's (1690) theory of limited government and the function of the government to protect the rights of life, liberty and property were adopted by the Constitution makers of the United States of

America. Another theory given by Baron de Montesquieu (1748) greatly influenced the American Constitution makers as it emphasised separation of powers of the Legislative and Executive branches of government. First and foremost in the late 18<sup>th</sup> century, the USA adopted a written Constitution on the lines of Locke's and Montesquieu's theories emphasising limited government, protection of citizens' rights, separation of powers among the legislature, executive and judiciary.

Today, The United States of America is a country of many governments. The federal government is of course the largest, but the governments of the fifty states and thousands of smaller units—counties, cities, towns and villages—are no less important. The drafters of the Constitution created this multilayered system of government. Over the past 230 years, American federalism has undergone constant evolution. Prior to the adoption of the Federal Constitution, the United States began as a Confederal System. The 13 colonies that declared independence from England saw themselves not as a single country, but as 13 separate new countries united in a confederacy. The Articles of Confederation—the U.S.'s first governing document, which went into effect in 1781, during the Revolutionary War—embodies this concept in its very title, as well as in the first article, which reads in its entirety, The Style of this Confederacy shall be "The United States of America". The Confederal System worked poorly for the newly



independent states, at least in the view of influential political leaders, and the Articles of Confederation were soon replaced by the Constitution (drafted in 1787 and ratified in 1788). (However when the southern states tried to secede from the U.S. in 1861 they consciously tried to reestablish a political system closer to the original Confederal System of the U.S., even adopting the name “Confederate States of America.”) After almost a decade operating under the Articles of Confederation, the framers of our Constitution realized that the states had too much power. They felt they needed a different system. They wished to create a stronger federal government. The result was a balance of powers between the states and the federal government, with the federal government clearly in charge. It not only provide American people a strong federal government, but also give a effective protection to the rights of stat and the people, which completely changed the political disorder in the previous Confederation period. This is the system which is decentralized. Sovereignty is shared by two or more levels of government in some matters; the national government is the highest. On the other matters, state, regional or provincial government is the highest. As the political and economic development, American federalism undergone in so many variety of changes. Distribution of powers between the national and state government has undergone from decentralization to centralisation and again decentralization.

Scholars have devised various models to describe the relationship between the states and the national government at different times in our history. These models are useful in describing the evolution of federalism after the Civil War. The period from 1789 to 1901 has been termed the era of dual federalism. It has been characterized as an era during which there was little collaboration between the national and state governments. The model of dual federalism assumes that the states and the national government are more or less equals, with each level of government having separate and distinct functions and responsibilities. The states exercise sovereign powers over certain matters, and the national government exercises sovereign powers over others. For much of our nation's history, this model of federalism prevailed. Certainly, after the Civil War the courts tended to support the states' rights to exercise their police powers and tended to strictly limit the powers of the federal government under the commerce clause. The era of dual federalism came to an end in the 1930s, when the United States was in the depths of the greatest economic depression it had ever experienced. The model of cooperative federalism, as the term implies, involves cooperation by all branches of government. Although Cooperative Federalism has roots in the civil war, the Great Depression marked an abrupt end to dual federalism and a dramatic shift to a strong national government. President Franklin D. Roosevelt's New Deal policies reached into the lives of U.S. citizens like no other





federal measure had. The national government was forced to cooperate with all levels of government to implement the New Deal policies; local government earned an equal standing with the other layers, as the federal government relied on political machines at a city level to bypass state legislatures. The formerly distinct division of responsibilities between state and national government had been described as a "layer cake," but, with the lines of duty blurred, cooperative federalism was likened to a "marble cake" or a "picket fence." In cooperative federalism, federal funds are distributed through grants in aid or categorical grants which gave the federal government more control over the use of the money.

In the 1970s, the U.S. moved toward new federalism. New federalism allows the states to reclaim some power while recognizing the federal government as the highest governmental power. It's a response to the argument that the federal government grew too powerful and overshadowed many of the responsibilities originally reserved to the states.

President Richard Nixon was the first U.S. president to openly support new federalism. Nixon served as president from 1969 to 1974, as new federalism first took root. However, new federalism is mostly associated with President Ronald Reagan's years, from 1981 to 1989.

Reagan thought federal grants were improperly used to impose the interests of the federal government on

the individual states. With new federalism, the federal government provides large block grants, or blocks of money, to the states to be used for social programs. Unlike in previous years, the states have broad discretion to implement the programs as they best see fit. The federal government mostly only monitors the progress and outcomes of the projects.

Since the 1980s, a new political movement called New Federalism has been steadily growing in parts of the United States. New Federalism urges for a reduction in the power of the federal government and an increase in states' individual powers. Much of this has to do with the rights of states to spend their own money however they want, without the federal government requiring it to be spent in certain ways. For now, this political movement is mostly confined to rural areas, but if it grows large enough, then the federal government will have to pay attention.

These days American federalism is known as progressive federalism. This type of federalism is a slight shift toward reclaiming power for the federal government. Programs like 2001's No Child Left Behind Act and 2010's Affordable Health Care Act are examples of progressive federalism. Responsibility for education and health care has traditionally been left to the states, but these programs allow the federal government to now partially regulate these areas.

## Conclusion

The concept of federalism, which evolved, originally from the Bible centred theologians of 17<sup>th</sup> century developed into federalism of all types. As we can say that the theory has been getting much importance in contemporary world because from its inception to present it is being followed by almost every country of the world in one form or other. Both India and US have followed this system in their political structure from time to time. India moved from dyarchy to new cooperative federalism in its historical and present period whereas US federalism is considered as the first modern federal country moved toward the new federalism from its confederation period.

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